

Decision 05-01-024 January 13, 2005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of San Jose for Order authorizing the relocation of existing at-grade crossing of Old Autumn Street at California Public Utilities Crossing No. 001DA-47.15-CX from approximate Mile Post (MP) 17.39 of the Union Pacific Railroad Company (UPRR) to a location 480 feet northeast of its present site.

Application 04-10-011
(Filed October 8, 2004)

O P I N I O N

Summary

The City of San José (City) is granted authority to relocate an existing at-grade private highway-rail crossing over the main line tracks of the Union Pacific Railroad (UP), in the County of Santa Clara.

Discussion

The City intends to relocate Autumn Street and requests authority to convert Autumn Street at-grade highway-crossing, currently a private crossing, into a public crossing. The crossing would be relocated from its present location on existing Autumn Street ("Old Autumn Street") to a location approximately 480 feet to the northeast on the planned new alignment of Autumn Street ("Relocated Autumn Street"), and would become a public crossing. The existing crossing of Old Autumn Street is located at UP MP 17.39 and is identified as California Public Utilities Commission ("CPUC") Crossing No. 001DA-47.15-CX (United States Department of Transportation ("DOT") Crossing No. 750149H).

The crossing of Relocated Autumn Street proposed in this application is to be CPUC Crossing No. 001DA-47.06. A vicinity map and an area map are provided in Attachment A.

This application also proposes the elimination of another existing private at-grade crossing of the UP tracks at Lenzen Avenue (the “Lenzen Avenue Crossing”) located at MP 46.24. It is identified as CPUC Crossing No. 001E-46.24-CX (DOT Crossing No. 755085R). Additionally, the City will be performing off-site safety mitigations agreed to by Rail Crossing Engineering Section (RCES) staff.

The Relocated Autumn Street Crossing would cross two tracks. The southern track is a low-density line, with a maximum allowed operating speed of 10 miles per hour. UP operates four to six trains per day over this track and serves local industries. The northern track will form the south leg of a wye that will be used by the Peninsula Corridor Joint Powers Board (JPB) --the special district that owns and administers the Caltrain commuter rail service-- to turn five trains per week, which, accounting for forward and return movements, will consist of approximately 10 crossings per week, primarily in the evenings. No passenger service is provided over this line.

The Relocated Autumn Street Crossing would eliminate the need for a new at-grade crossing between Relocated Autumn Street and the west side of the Guadalupe River. Both the Santa Clara Valley Water District (SCVWD) and the San José Redevelopment Agency (Agency) have agreed that the Relocated Autumn Street Crossing would satisfy their respective needs for a crossing for SCVWD maintenance vehicles, pedestrians and bicyclists on the west side of the Guadalupe River.

The City plans for the Autumn Street relocation and extension to occur incrementally over time as adjacent private properties develop. The City currently is processing an application by a retail developer to develop a property adjacent to the west side of proposed Relocated Autumn Street between Coleman Avenue and the UP right-of-way. The City intends to require this developer to construct the adjacent segment of Relocated Autumn Street (First Segment). In the First Segment, Relocated Autumn Street will have one traffic lane, one striped parking lane and one striped bicycle lane in each direction, separated by a 14-foot wide landscaped median. The First Segment of Relocated Autumn Street will have a 75-foot wide right-of-way and will include a 10-foot wide sidewalk on the west side. Near the northern edge of the UP right-of-way, the width of Autumn Street will increase to 87 feet. The additional width will channel Relocated Autumn Street and a combination 12-foot wide pedestrian, bicycle and maintenance trail (Guadalupe Trail)--proposed by the Agency in connection with the Guadalupe River Park and Gardens on the east side of Relocated Autumn Street--across the UP right-of-way. The parking lane could be converted to a traffic lane during peak use. There will be no public vehicle access over the crossing in the First Segment. The initial public usage of the crossing will be for pedestrians and bicyclists. Vehicular access will be restricted by locked gates on both sides of the crossing. The gates will be opened for use only by SCVWD vehicles for maintenance purposes. A drawing of the proposed crossing for the First Segment and future segments is included as Attachment B.

The warning devices for vehicular traffic will consist of four CPUC Standard No. 9s (flashing light signals with automatic gates) installed outside of the curbs and installed in the medians. For pedestrians and bicyclists there will be one additional Standard No. 9 for Guadalupe Trail users across the eastside

sidewalk (see Attachment C). The City will ensure that the active warning system is installed in connection with the First Segment of Relocated Autumn Street (proposed in this application). The First Segment of Relocated Autumn Street (*i.e.*, the construction of Relocated Autumn Street from Coleman Avenue to just south of the UP right-of-way) will include a 14-foot wide landscaped median. In the First Segment, before public vehicle traffic is allowed across the Relocated Autumn Street Crossing, there will be a median break to allow right in/left out traffic at Driveway 8 of the adjacent retail development. Driveway 8 will be used primarily by delivery vehicles (few customer vehicles are expected to use Driveway 8). The City will ensure that, in the First Segment, Driveway 8 is stop sign controlled and marked with signage to permit only right in/left out traffic.

In the future, when public vehicle traffic is allowed across the Relocated Autumn Street Crossing, the median break at Driveway 8 will be closed. At that time, Driveway 8 would provide only right in/right out access to Relocated Autumn Street. The City also will ensure that, in future segments, Driveway 8 is stop sign controlled and marked with signage to permit only right in/right out traffic.

Vehicles exiting Driveway 8 and turning right (south) onto Relocated Autumn Street will stop at the stop sign. From this location, there will be clear sight-lines, with no obstruction from landscaping or other features, to the proposed No. 9 active warning devices to alert drivers of approaching trains. When the crossing gates are closed, there will be adequate queue space along an unobstructed access road within the adjacent retail development. When the crossing gates open, vehicles exiting Driveway 8 will proceed in making a safe right turn. In connection with the future segments, Driveway 7 to the adjacent

development will be signalized. The City will establish signal preemption at this intersection to work in concert with the crossing signal. (The City will have conduits installed for Driveway 7 signals and preemption facilities constructed during the First Segment of Relocated Autumn Street.)

The relocation and extension of Autumn Street is an integral part of the City's plans for future development of its downtown area. In the San José 2020 General Plan, the City has identified the relocation and extension of Autumn Street from Coleman Avenue to West Santa Clara Street as a priority. The City intends that Relocated Autumn Street will serve as a north-south arterial street that will connect downtown San José (to the south) with retail, commercial, light industrial and residential development uses and the Norman Y. Mineta San José International Airport (to the north). The Downtown Streetscape Master Plan designates "Autumn Parkway" (*i.e.*, Relocated Autumn Street) as an "Urban Structure Street," therefore encompassing specialized design elements because of the important role that Relocated Autumn Street will play in the future expansion of downtown. Further, because of its close proximity to Guadalupe River Park, Relocated Autumn Street is envisioned to function as a "riverfront boulevard." After full build-out, City estimates that 14,000 to 19,000 vehicles a day will travel on Relocated Autumn Street.

A Response to Application was received from the JPB expressing concerns over access to JPB's Centralized Equipment and Maintenance Operations Facility (CEMOF) now under construction. Access to CEMOF is from Old Autumn Street and the application states that the Old Autumn Street crossing will be closed when Relocated Autumn Street is opened to full vehicular traffic. A secondary concern is over the slow speed of its trains being turned over the wye, which could block the Relocated Autumn Street crossing for an extended period.

In a letter to RCES staff dated November 17, 2004, the City assures all parties that the future closure of Old Autumn Street will be done in such a way that full access to JPB's CEMOF will be maintained. The JPB plans on turning their trains over the wye primarily in the evenings, which due to the commercial nature of the proposed development in the area, will avoid the peak traffic periods. Additionally, the proposed design of the crossing, consisting of CPUC Standard gate mechanisms and long raised medians, provides a high level of warning/safety. In subsequent discussions with RCES staff, JPB has indicated they are satisfied with the City's plans.

The City is the lead agency for this project under the California Environmental Quality Act (CEQA), as amended, Public Resources (PR) Code Section 21000 et seq. On October 27, 2004, the City of San Jose Planning Commission certified the Final Environmental Impact Report (EIR) and recommended approval of the planned development rezoning. On November 16, 2004, in compliance with CEQA, the City filed its Notice of Determination with the County Clerk of Santa Clara County, approving the project, which stated that the project will have a significant effect on the environment (State Clearinghouse Number 2004032132). Accordingly, the City adopted mitigation measures as a condition of approval of the project, and submitted a Statement of Overriding Considerations (SOC) for the project.

The Commission is a responsible agency for this project under CEQA (PR Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's EIR or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities

that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

We have reviewed the City's environmental documentation. The documentation consists of the Notice of Determination (NOD), a Final EIR and an SOC. We find that these environmental documents are adequate for our decision-making purpose. Analysis of potential environmental impacts included Land Use, Transportation, Circulation and Parking, Air Quality, Noise, Biological Resources, Geology, Soils and Seismicity, Hydrology and water Quality, Hazards, Cultural and Paleontological Resources, Visual Resources, Shade and Shadow, Utilities and Infrastructure Service Systems, Public Services and Facilities and Energy.

Transportation, safety and noise are within the scope of the Commission's permitting process. The environmental documentation discussed noise, hazards and transportation and circulation.

Transportation and circulation impacts were identified in the Final EIR related to two of 28 intersections studied in the document due to increased roadway traffic volumes. Both will be mitigated to a level less than significant. Traffic on two freeways, State Route (SR) 87 and SR 280 were increased to a level of significant and unavoidable, since mitigation measures to lessen these impacts would involve widening of both freeways, which would require significant acquisition of right-of-way, which would require the demolition of numerous homes and businesses which would be a greater impact than the increased roadway traffic.

Safety impacts were identified in the Final EIR related to existing contaminants in the soil, the transport of hazardous materials during construction activities and the demolition of structures containing hazardous

materials. All impacts will be mitigated to a level less than significant by the preparation of a Risk Management Plan, including soil and groundwater mitigations, emergency procedures and a hazardous materials survey of structures prior to issuing demolition permits.

Noise impacts were identified in the Final EIR related short-term noise related to construction. All construction-related noise impacts will be mitigated to a level less than significant by limiting the hours of construction, use of properly operating and maintained mufflers, implementing "quiet" pile driving technology and temporary noise controls such as control blankets on existing building structures. Noise impacts due to railroad operations, nearby roadways and aircraft associated with nearby San Jose International Airport can be mitigated to a level less than significant inside building structures by utilizing soundproofing materials and techniques; however, it is not possible to reduce exterior noise levels at outdoor dining areas below the City's exterior noise standards. This impact will remain significant and unavoidable.

In adopting the SOC, the City determined that certain project benefits outweigh the significant and unavoidable impacts and warrant project approval. The SOC stated that the significant and unavoidable impacts of the project were acceptable due to the projects potential to generate an increase in tax base to allow San José to become a "balanced community," to offset the pressures for housing and population growth without a solid financial foundation.

Additionally, locating new commercial tax base near the City's core will support the goal of downtown revitalization and aid in growth management.

With respect to the potentially-significant noise and transportation impacts identified above that could be mitigated, the Commission finds that the City adopted feasible mitigation measures to either eliminate or substantially lessen

those impacts. With respect to the project environmental impacts that remain significant and unavoidable, we also find that the City identified reasonable project benefits to justify its adoption of an SOC and project approval. Therefore, we similarly adopt and require the mitigation measures identified in the City's Final EIR and adopt the SOC, for purposes of our project approval.

RCES staff has inspected the site of the proposed project. After reviewing the need for and safety of the relocated highway-rail crossing, RCES recommends that the requested authority sought by the City be granted but expire if not exercised within a period of two years.

Application 04-10-011 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 39, which relates to the relocation of a highway across a railroad.

Categorization and Need for Hearings

In Resolution ALJ 176-3141, dated October 28, 2004, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received.

Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3141.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission Daily Calendar on October 13, 2004. No protests have been filed.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to relocate and improve an at-grade highway-rail crossing (CPUC Crossing No. 001DA-47.15-CX) and close an existing at-grade private crossing (CPUC Crossing No. 001E-46.24-CX) over the main line tracks of UP in San Jose, Santa Clara County. The new crossing number of the relocated crossing is 001DA-47.06.
3. Public convenience, safety, and necessity require the relocation of the existing at-grade highway-rail crossing.
4. The City is the lead agency for this project under CEQA, as amended.
5. The Commission is a responsible agency for this project, and has reviewed and considered the City's environmental documentation.
6. On November 23, 2004, the City filed its NOD approving the project and found that the project would have a significant effect on the environment. An SOC was adopted for the project.
7. The City's environmental document is adequate for our decision-making purposes.
8. Transportation and noise are within the scope of the Commission's permitting process.
9. The Commission finds that for each potentially significant impact related to transportation and noise, the City adopted feasible mitigation measures to either eliminate or substantially lessen those impacts.

10. The Commission finds that for environmental impacts determined to be significant and unavoidable, the City reasonably concluded there are sufficient project benefits to warrant project approval.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.
2. We adopt the City's NOD and require the mitigation measures identified in the City's Final EIR as well as the SOC for purposes of our approval.
3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of San José (City) is authorized to relocate the existing at-grade highway-rail crossing at Autumn Street (CPUC Crossing No. 001DA-47.15-CX), and to close one at-grade private highway-crossing at Lenzen Avenue (No. 001E-46.24-CX) over the main line tracks of the Union Pacific Railroad (UP) in San José, Santa Clara County. The Relocated Autumn Street will be known as CPUC Crossing No 001DA-47.06.
2. City shall install four CPUC Standard No. 9s (flashing light signals with automatic gates) outside of the curbs and in the medians. For pedestrians and bicyclists there shall be one additional Standard No. 9 for Guadalupe Trail users across the eastside sidewalk.
3. City shall comply with additional safety requirements as specified in Attachment D.
4. City shall comply with all applicable General Orders, the Federal Highway Administration's Manual on Uniform Traffic Control Devices as amended by the California Supplement, and the Caltrans Highway Design Manual.

5. Within 30 days after completion of the work under this order, the City shall notify RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), that the authorized work is completed.

6. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

7. This application is granted as set forth above.

8. Application 04-10-011 is closed.

This order is effective 30 days from today.

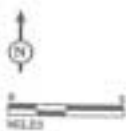
Dated January 13, 2005, at San Francisco, California.

MICHAEL R. PEEVEY
President
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

ATTACHMENT A



LSA



Regional Location Map

ATTACHMENT A



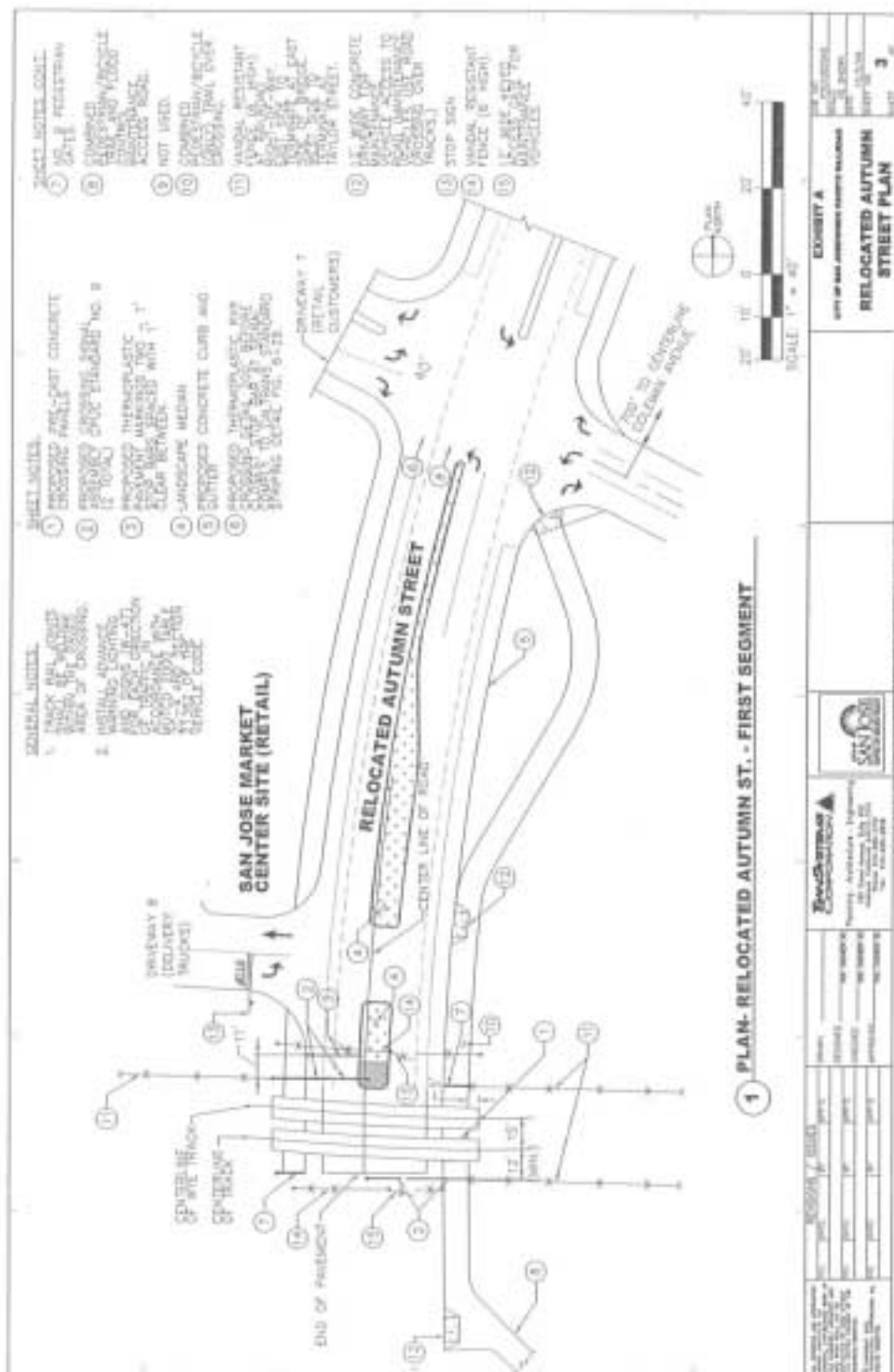
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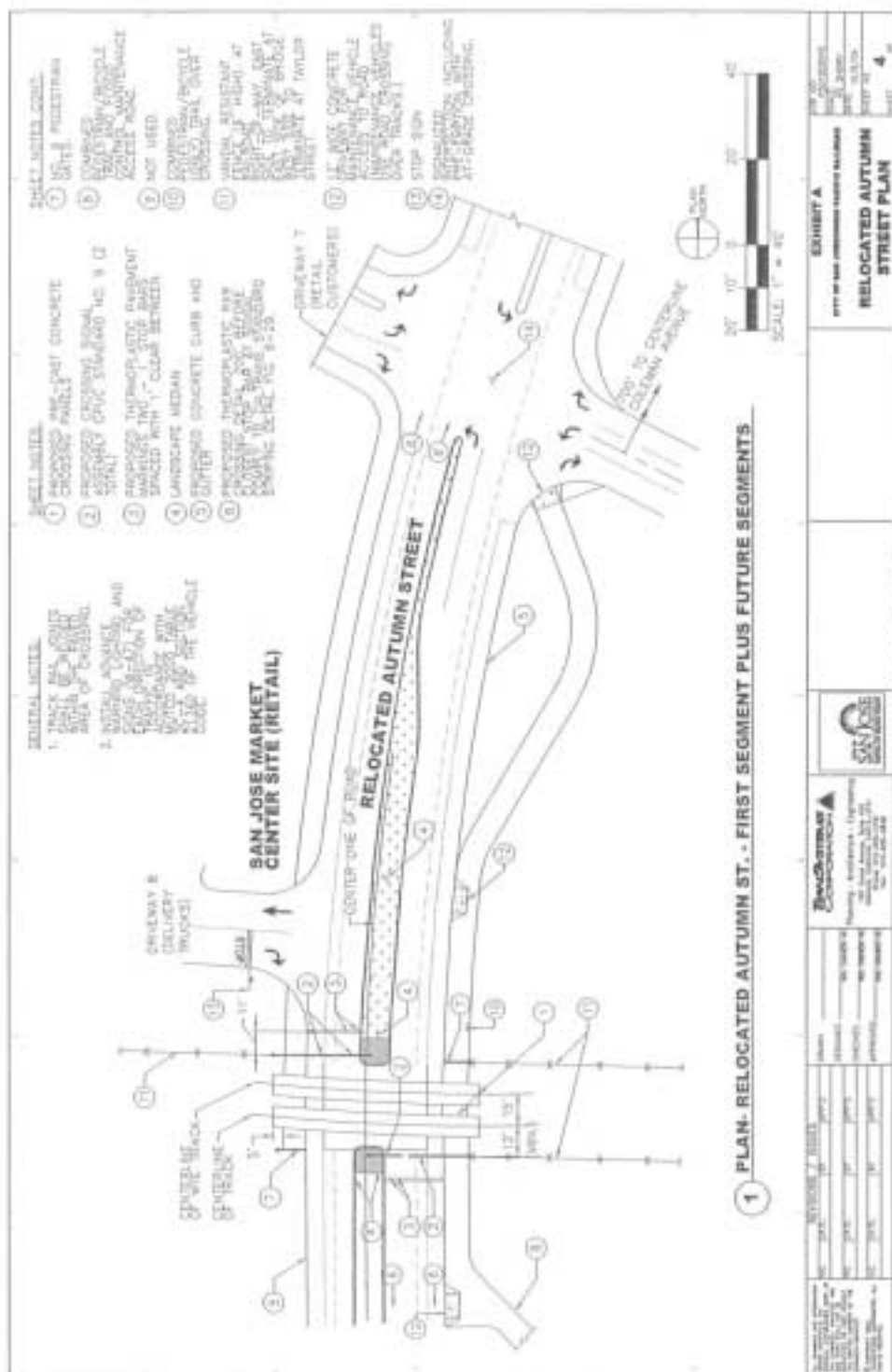
PROJECT SITE

Project Site Location

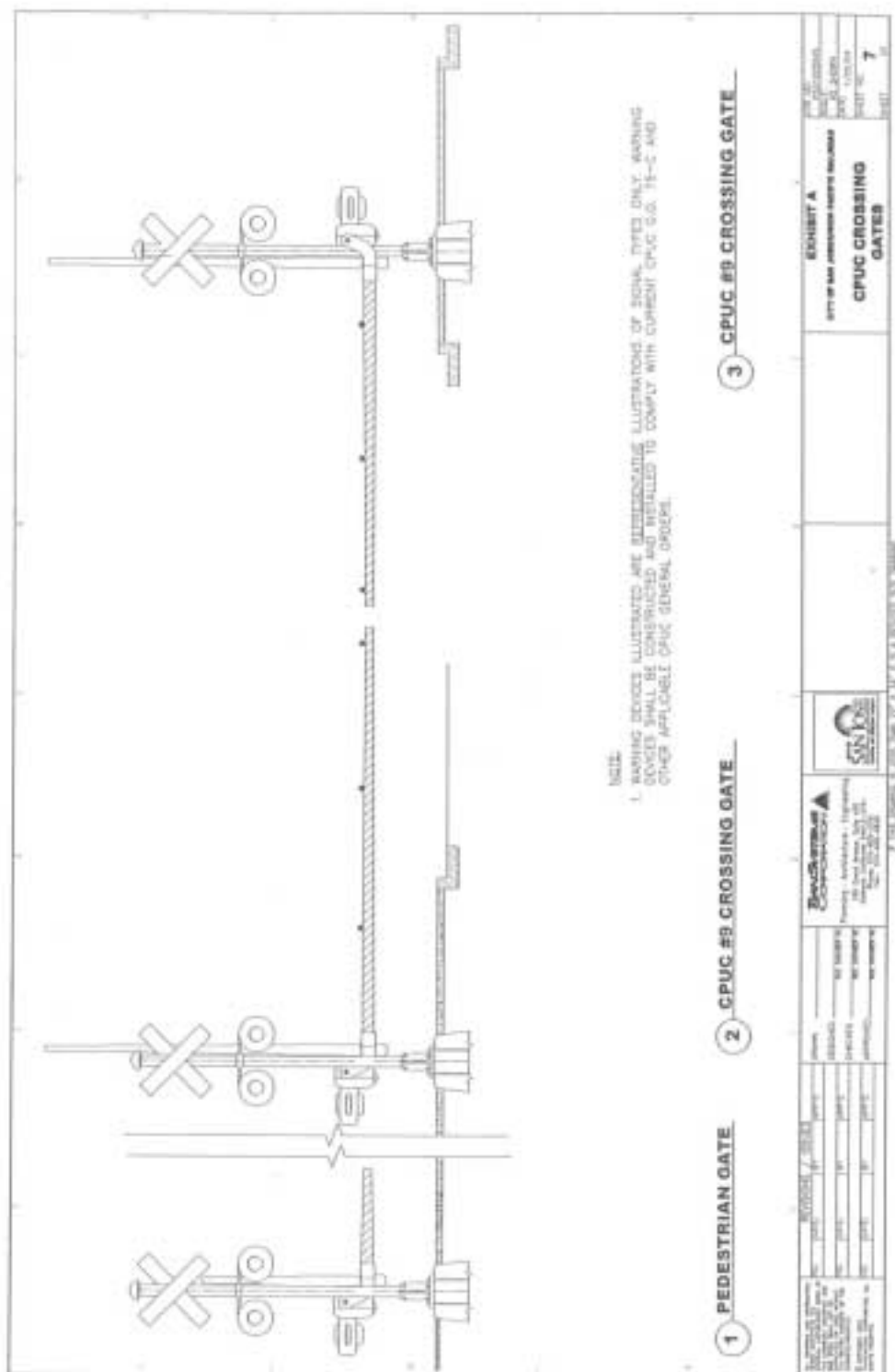
ATTACHMENT B



ATTACHMENT B



ATTACHMENT C



ATTACHMENT D**First Segment:**

- a. Install stop sign control and right in/left out signage at Driveway 8.
- b. Install an active warning system that complies with General Order (GO) 75-C, consisting of Standard No. 9 Assemblies outside of the curbs, sidewalk and Guadalupe Trail along both sides of Relocated Autumn Street and Standard No. 9 Assemblies on the median.
- c. Install signage to direct pedestrians, bicyclists and maintenance vehicles on the Guadalupe Trail to the Relocated Autumn Street Crossing.
- d. Install a six-foot steel tubular, or equivalent vandal resistant, fence and warning signage along UP right-of-way within Guadalupe River Park.
- e. Install a No. 9 pedestrian gate in each direction at the sidewalk on the west side of Relocated Autumn Street and the Guadalupe Trail on the east side of Relocated Autumn Street.
- f. Construct a curb cut from Guadalupe Trail to channel SCVWD maintenance vehicles onto Relocated Autumn Street so that these vehicles cross the Relocated Autumn Street Crossing within the vehicle traffic lanes.
- g. Install locked gates on both sides of the Relocated Autumn Street Crossing to limit vehicular access to the Relocated Autumn Street Crossing to SCVWD maintenance vehicles.
- h. Install conduits for future Driveway 7 signals and preemption facilities.
- i. Provide clearances in accordance with GO 26-D.
- j. Hold back tall landscaping 100 feet from the Relocated Autumn Street Crossing, to preserve visibility of the warning devices.

ATTACHMENT D

Future Segments:

- a. Maintain all protection identified for the First Segment unless otherwise indicated.
- b. Install right in/right out signage and close median break at Driveway 8.
- c. Hold back on-street parking and tall landscaping 100 feet from the Relocated Autumn Street Crossing.
- d. Remove locked gates on both sides of Relocated Autumn Street Crossing to allow public vehicular traffic.
- e. Establish signal preemption at Driveway 7 to work in concert with the crossing signals.
- f. Construct a raised median south of the Relocated Autumn Street crossing. The median will prevent “gate-jumping” when the Relocated Autumn Street crossing is open to the public.